IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.2701 OF 1998

The Board of Trustees of the Port of Mumbai ...Plaintiff

Versus

M/s.K.B.Trading Company ...Defendants

Mrs Bhalekar with Priti Shah i/by Mulla & Mulla for the Plaintiff.

CORAM : ABHAY S.OKA, J.
DATED : JULY 31, 2007.

ORAL JUDMENT:

1. This suit is listed under the caption of "Undefended Suits for Exparte Decree". The learned counsel for the Plaintiff has tendered on record a compilation of original documents. The compilation is marked "Y" (collectively) for identification and is taken on record. I have perused the averments made in the plaint and the original documents which are already referred to and relied upon in the plaint. There is nothing on record to disbelieve the correctness of the averments made in the plaint and therefore, this is a fit case for passing a decree by invoking sub rule 2 of Rule 5 of Order VIII of the Code of Civil Procedure, 1098. The Plaintiffs have claimed further interest at the rate of 18 per cent per annum. There is no agreement between the parties as regards payment of

interest at a particular rate. Therefore, considering the facts and circumstances of the case further interest will have to be fixed at 6 per cent per annum. Hence, there will be a decree in terms of prayer clause (a) with modification that interest at the rate of 6 per cent per annum will be payable on the sum of Rs.66,967.44/- from the date of institution of the suit till realisation or payment.

2. The Plaintiff will be entitled to refund of court fees, if any, as per the rules.

3. Certified copy is expedited.

JUDGE